IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

Crl.MC.No. 405 of 2007()

CRIME NO. 12/07 OF KOLAVALLUR POLICE STATION

PETITIONERS:

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1. SANI.M.J., S/O.JOSEPH,
   MYALIL HOUSE, TALIPARAMBA P.O.,
   VELLARVALLY VILLAGE, PERAVOOR,
   THALASSERY TALUK, KANNUR DISTRICT.

2. V.K.JOSEPH, S/O.KURIAN,
   VAKACHALIL HOUSE, MANAGING PARTNER,
   PANNOOR GRANITE INDUSTRIES, KALLUVALAPPU P.O.

BY ADV. SRI.H.BADARUDDIN
SRI.C.A.JOSEPH

RESPONDENTS:

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1. STATION HOUSE OFFICER,
   KOLAVALLUR POLICE STATION, THALASSERI,
   KANNUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
   ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 405 OF 2007

Dated this the 6th day of March, 2007

ORDER

The petitioners claim to be the driver and the owner of a lorry. The said lorry was intercepted by the police officials when it was allegedly transporting granite stone without any permit. The driver of the vehicle who was present allegedly made himself scarce and could not be arrested by the police officials. The vehicle has now been released already to the owner on the basis of an order passed by the learned Magistrate, it is submitted. The petitioners claiming themselves to be the driver and the owner of the vehicle have come to this Court with a prayer that the F.I.R. may be quashed. According to them, no offence as alleged under Sec.4(A) read with Sec.21(1) of the Minor Mineral (Development and Regulation) Act and Rule 58 of the Kerala Minor Mineral Concession Rules, 1967 have been committed at all. The short contention is that the petitioners have the requisite documents to prove the licit nature of the transportation which was allegedly conducted using the

vehicle.

2. The learned Public Prosecutor submits that the police have not been able to identify the driver and the owner of the vehicle so far. It is in this petition that the petitioners, for the first time, claim to be the driver and owner of the vehicle. If the petitioners have documents to show that the transportation at the time of seizure was licit, they must co-operate with the Investigators and make such documents available for the perusal of the Investigating Officer. The prayer to quash the proceedings is, at any rate, not justified, submits the learned Public Prosecutor.

3. I find merit in the submission of the learned Public Prosecutor. If the transportation is covered by valid documents, I find no reason why the petitioners who claim to be the driver and owner respectively of the vehicle shall hesitate to produce the relevant documents before the Investigating Officer. There appears to be no contention that the transportation, without the requisite document, is not illegal. There appears to be no contention also that the seizure had not been effected. In these circumstances, the police are entitled to insist that they

must be permitted to verify the documents to satisfy themselves of the licit nature of the transportation.

4. This Crl.M.C. is, in these circumstances, dismissed; but with the observation that it shall be open to the petitioners to appear before the Investigating Officer and to produce all the relevant documents before the Investigating Officer to satisfy him that there was nothing illicit, improper or contumacious in the alleged transportation of granite stone at the relevant time.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge